

Court of Appeals, State of Michigan

ORDER

David Forystek v Clio Area Schools Board of Education

Docket No. 279647

LC No. 06-083682-CZ

William B. Murphy
Presiding Judge

Kathleen Jansen

Donald S. Owens
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED. The two cases cited by appellant Kerr both involve defendants who specifically filed motions for summary disposition based on governmental immunity and those motions were denied by order. The only jurisdictional issue in those cases was whether there was an appeal of right even if the motion was based on MCR 2.116(C)(10) as opposed to MCR 2.116(C)(7) or (8). Any other statements not involving that jurisdictional issue would be dicta. In this case appellant Kerr never filed a motion for summary disposition that was based on governmental immunity and Kerr cites nothing that prevented Kerr from filing a motion to set aside the default and a motion for summary disposition based on governmental immunity after the default was entered.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 23 2007
Date

Sandra Schultz Mengel
Chief Clerk